

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Southern California Edison Company (U 338-E) for Approval of its 2003 Revenue Requirement and Related Estimates Under the Energy Resource Recovery Account (ERRA); for Approval of its 2003 AB57 Trigger and Threshold Amounts; and for Approval of a Proposed Scope and Schedule for ERRA Proceedings.

Application 03-04-022  
(Filed April 1, 2003)

**ADMINISTRATIVE LAW JUDGE'S RULING  
ON MOTIONS FOR LEAVE TO FILE UNDER SEAL  
AND APPROVAL OF A PROTECTIVE ORDER**

By its April 11, 2003 motion, Southern California Edison Company (SCE) moves for leave to file under seal certain information contained in its Exhibit SCE-1 tendered under seal with its application, pursuant to Public Utilities Code Section 583 and General Order (GO) 66-C.

By a companion motion, SCE seeks a protective order to ensure that its sealed information including computer models, algorithms, and assumptions relied on in developing its testimony and any subsequent information it deems confidential or proprietary remain confidential. Attached to that companion motion was a proposed protective agreement (agreement) to govern access and use of all SCE protected information and computer program materials in this proceeding.

There is no filed opposition to these motions. A public hearing on these motions is not needed.

The granting of SCE's request to seal confidential information included in its Exhibit SCE-1 would not prejudice any party because SCE would provide Commission staff access to such information and upon the signing of a protective agreement all interested parties would also have access. It is also consistent with prior treatment of SCE confidential information. For example, the same type of information was protected in Rulemaking 01-10-024 under a May 1, 2002 protective order. The information tendered under seal shall remain under seal as set forth in this ruling, pursuant to GO 66-C and the authority therein cited by SCE.

It is reasonable to require interested parties to sign a protective order to access computer models including algorithms and assumptions SCE relied on in developing its testimony covered by a license agreement or deemed proprietary. Such a request is consistent with Article 17.1 of the Commission's Rules of Practice and Procedure. However, approval of the agreement attached to SCE's motion would impose conditions on non-signatories of that agreement, the Commission staff. For example, Section 3(a) identifies how protected information is to be processed by Commission staff, Section 3(g) identifies activities the Commission's Energy Division Director or designee is to participate in, and Section 26 identifies how the assigned Administrative Law Judge is to manage signed protective agreements.

It is not reasonable to adopt a proposed agreement that sets forth requirements for Commission staff to follow, particularly since staff is already bound by Section 583 and GO 66-C, and will not be not signatories to that agreement. The proposed agreement is not adopted.

Consistent with Rule 74.7 of the Commission's Rules of Practice and Procedure, SCE should execute a mutually agreed upon agreement with any party other than Commission staff wanting to access sealed data, and computer models including algorithms and assumptions SCE relied on in developing its testimony covered by a license agreement or deemed confidential. To the extent that parties cannot agree on a reasonable agreement, the assigned ALJ upon receipt of a motion shall resolve any disputes.

Good cause appearing, **IT IS RULED** that:

1. The motion of Southern California Edison Company (SCE) for leave to file under seal commercially sensitive information contained in its Exhibit No. SCE-1 Testimony and Exhibits is granted.

2. Portions of Exhibit No. SCE-1, submitted as a sealed document with SCE's application, shall remain under seal for a period of two years from the date of a final order in this proceeding, and during that period shall not be made accessible or disclosed to anyone other than Commission staff except on the execution of a mutually acceptable protective agreement.

3. If Applicant believes that further protection of sealed information is needed beyond two years after a final order is issued, it may file a motion stating the justification for further withholding of sealed portions of Exhibit No. SCE-1 from public inspection, or for such other relief as the Commission rules may then provide. This motion shall be filed no later than 30 days before the expiration of this protective order.

4. SCE shall provide the confidential information to the Commission staff under the protection of Public Utilities Code Section 583.

5. SCE shall execute a mutually agreed upon protective agreement with any party, other than Commission staff, wanting access to sealed information and

computer models including algorithms and assumptions SCE relied on in developing its testimony covered by a license agreement or deemed confidential. The assigned Administrative Law Judge upon receipt of a motion shall resolve any disputes.

Dated May 19, 2003, at San Francisco, California.

/s/ MICHAEL J. GALVIN  
\_\_\_\_\_  
Michael J. Galvin  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling on Motions for Leave to File Under Seal and Approval of a Protective Order on all parties of record in this proceeding or their attorneys of record.

Dated May 19, 2003, at San Francisco, California.

/s/ HELEN FRIEDMAN  
Helen Friedman

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

\*\*\*\*\*

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at

A.03-04-022 MFG/hf1

(415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.